

## **REMARKS**

### **Amendment After Final**

Entry of this Amendment is respectfully requested on the ground that this Amendment places the application in condition for allowance. Alternatively, entry of this Amendment is respectfully requested on the ground that this amendment places the claims in better form and condition for appeal. Furthermore, Applicant submits that any changes made to the claims herein do not require an additional search on the part of the Office, nor do any amendments made herein raise new issues with regard to the patentability of the claims now pending.

### **Claims**

Applicant has amended Claims 1, 9, 24, 28 and 55, and cancelled Claims 17-23, 25-27 and 34-40, without prejudice or disclaimer. Clean copies of the amended claims appear hereinabove, and marked up copies of the amended claims appear hereinbelow.

### **Claim Rejections Pursuant to 35 U.S.C. §102(b)**

Claims 1, 3-6, 17-18, and 21-23 stand rejected under 35 U.S.C. §102(b) as being anticipated by Assisi et al., U.S. Patent No. 5,696,488. Applicant respectfully traverses these rejections for at least the following reasons:

35 U.S.C. 102(b) recites:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Consistently, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *See, M.P.E.P. §2131 citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Regarding Claims 1, 3-6:

Independent Claim 1, as amended, recites:

1. A system for providing memorial information about a deceased party interred at a cemetery location comprising:
  - (A) a memory device affixed to a physical object positioned at the cemetery location and accessible by any public user, the memorial information residing on the memory device; and
  - (B) a portable memory reading device, separate from the memory device, held by a user, that retrieves the memorial information directly from the memory device via a non-permanent proximity link when positioned at the memory device location and communicates the memorial information to the user located at the cemetery location;  
wherein the memory device is without external connections for at least data and power.

In rejecting Claim 1, Examiner states:

Re claims 1, 4-6: Assisi discloses a system having a device for storing retrieval information relating a deceased person, the system comprising:

A computer 5 having a memory device 6 permanently affixed to a stationary physical object/location positioned at the

cemetery location (i.e., the computer and the memory is directly located in the cemetery 1), the memorial information residing on the memory device that is a weather resistant memory device (see col. 1 lines 4+; col. 2, lines 7+ and the figure);

A portable memory device 3, 11 separate from the memory device of the cemetery location 1, that retrieves the memorial information directly from the memory device of the cemetery location when it is positioned at the cemetery location (i.e., wireless communication carried out when the portable memory reading device is brought into the vicinity of the memory device 2). The memorial information in the memory device of the cemetery location is in the form of text, image or audio data of the deceased person in the cemetery (see col. 1, lines 35+ and col. 2 lines 23 +);

Additionally, Examiner states:

Further, Assisi clearly teaches that the computer 5 having memory device 6 is permanently affixed to a stationary physical object/location positioned at the cemetery location, i.e., the computer and the memory is directly located in the cemetery 1 (see col. 2, lines 17+). This clearly teaches that when the computer having a memory device is permanently affixed the cemetery location, the data cable would be eliminated.

Applicant respectfully disagrees. Claim 1 of the present invention does not employ a computer as in Assisi Figure 1. Assisi discloses an expandable system with one transmitter/receiver 2, one hardwire cable 4, one computer 5, and one storage device 6 per gravestone, as shown in Assisi Figure 1. It is noted that the computers and storage devices of Assisi utilize a common energy source 8, and are housed in a cemetery or a control storage chamber 7 (col. 2. lines 17-22). Assisi can thus, due to its use of a computer, not function without an external energy source.

Claim 1 of the present invention does not employ a computer. The present invention lacks the centrally co-located computer 5, 5', storage devices 6, 6', and energy source 8 in a cemetery or control storage chamber 7 not accessible to the public. In addition, the present invention lacks individual connection of each gravestone to a cable 4 back to the centrally co-located control storage chamber 7. The present invention is, contrary to the teachings of Assisi, fully accessible, in its entirety, to the public by virtue of the memory device being affixed to a physical object positioned at a cemetery location, and by virtue of the memory device being externally connectionless for at least one of data and power.

Thus, the present invention is in direct contrast to the teachings of Assisi, due to the absence of a computer associated with the memory device, the absence of a non-public central location, the lack of a control storage chamber 7 for all computers 5, 5'' and storage devices 6, 6', the lack of an external energy source 8, and the absence of external connections 4 to the memory device. The present invention utilizes a direct, i.e. without intervening computer 5 of Assisi, non-permanent, i.e. no cable 4 interface of Assisi, proximity link to the memory device. Applicant has amended these clarifying characteristics into Claim 1.

Additionally, Applicant asserts that the invention of Assisi does not function in the absence of the computer 5, 5', the storage device 6, 6', the energy source 8 in a control storage chamber 7, and the cable 4, as does the present invention. Applicant asserts that Assisi thus differs from the present invention, and would, in fact, be inoperable if performed in accordance with the present invention, and therefore Assisi does not anticipate the present invention. Additionally, Applicant notes that the Examiner has rejected Claim 1 of the present invention partly on the basis of the presence of a computer, which is not an element of Claim 1.

Assisi thus fails to teach at least a direct, non-permanent, externally connectionless proximity link to the memory device, and thus Assisi cannot anticipate amended Claim 1. *See MPEP 2131*. Consequently, Applicant traverses the 35 U.S.C. §102(b) rejection of Claim 1, deems it overcome, and respectfully requests removal of the rejection. In addition, Applicant submits that independent Claim 1 is in a condition for allowance.

Further, Applicant submits that dependent Claims 3-6 are similarly in a condition for allowance, at least by virtue of an ultimate dependency upon a patentably distinct base Claim 1. Applicant thus traverses Examiner's rejections of Claims 3-6.

#### **Claim Rejections Pursuant to 35 U.S.C. §103**

Claims 2, 7-16, 19-20, and 24-40 stand rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,696,488 to Assisi et al., in view of an unspecified second reference. The unspecified second reference is stated to be an artisan of ordinary skill in the art at the time the invention was made. Applicant respectfully submits that there is no motivation or reasonable expectation of success in modifying Assisi as stated. No support for an assertion of the existence of a reference, or of motivation to combine, is provided. Applicant thus respectfully requests that a reference in support of this assertion be provided, as required by MPEP §2144.03.

Applicant further traverses the §103 rejections for at least the following reasons:

Claim 2 is dependent on independent Claim 1, which, as stated above, Applicant submits is in a condition for allowance.

Independent Claim 9 has been similarly amended to include the distinctive clarifications of amended Claim 1. Thus, Applicant submits amended Claim 9 is in a condition for allowance.

Claims 7-16 are dependent on independent Claim 9 which, as stated above, Applicant believes is in a condition for allowance.

Each of independent Claims 24 and 28 has been amended to include the distinctive clarifications of amended Claim 1. Thus, Applicant submits amended Claims 24 and 28 are similarly in a condition for allowance.

Claims 29-33 are dependent on independent Claim 28 which, as stated above, Applicant believes is in a condition for allowance.

Applicant thus asserts that amended independent Claims 1, 9, 24 and 28 are not rendered obvious by Assisi because Assisi fails to teach, among other things, a direct, non-permanent, externally connectionless proximity link. *MPEP 706.02(j)* (... *the prior art reference (or references when combined) must teach or suggest all claim limitations.*) and because the combination of elements of Claims 1, 9, 24, and 28 eliminates the need for certain components of the Assisi system, including a computer and external data and power connections, without which Assisi would be inoperable. Consequently, Applicant traverses the 35 U.S.C. §103(a) rejections and respectfully requests their reconsideration and removal. Applicant submits that independent Claims 1, 9, 24 and 28 and dependent Claims 2, 7-16, and 29-33 are in a condition for allowance.

Claim 55 is rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,696,488 to Assisi et al. in view of U.S. Patent No. 4,689,757 to Downing et al. Examiner states Assisi does not disclose the data connector, and the information directly passing from the memory device to the portable reader upon the wire connection between the portable reader and the data connector, and upon contact of the memory device to the data connector. Further, Examiner asserts that Downing discloses the data connector 12 and the information passing directly from the memory device (counting machine 10) to the portable reader (transfer unit 16) upon the wire connection 18 between the portable reader and the data connector, and upon contact with the memory device to the data connector via the wire connection 14 (see col. 3 lines 5+ and figure 1).

Regarding Claim 55, Examiner fails to make a prima facie case for obviousness.

35 USC §103(a) recites:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Accordingly, MPEP 706.02(j) states:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Amended Claim 55 recites:

A system for providing information related to a geographically remote and publicly accessible location, comprising:  
a memory device affixed at the remote location;  
a portable memory reader, separate from said memory device;  
a data connector, wherein said data connector, upon wired connection to said portable reader and upon contact with said memory device, passes the information directly from said memory device positioned at the remote location to said portable reader located at the remote location via a non-permanent proximity link;  
wherein the memory device is externally connectionless for at least one of data and power.



Downing discloses at col. 3 lines 20-22 that a “[t]ransfer unit 16 can be connected into the module 12 via a cable 18, utilizing conventional connectors.”

Applicant asserts that the operation of reading from the memory device by a non-permanent proximity link of the present invention does not involve the use of “conventional connectors”, i.e. permanent cabled connections, as envisioned in Downing. Downing fails to disclose reading from a memory device directly via a non-permanent proximity link, wherein the memory device is externally connectionless for at least one of power and data.

Since both Assisi and Downing fail to disclose at least these limitations of Claim 55, either alone or in any combination, the combination of Assisi and Downing cannot render obvious the present invention. *MPEP 706.02(j) (... the prior art reference (or references when combined) must teach or suggest all claim limitations.)*. Consequently, Applicant traverses the 35 U.S.C. §103(a) rejections and respectfully requests their reconsideration and removal. Applicant asserts that independent Claim 55 is in a condition for allowance.

**Conclusion**

Applicant respectfully requests reconsideration of the present Application in light of the reasons set forth herein, and a Notice of Allowance for all pending claims is earnestly solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Thomas J. McWilliams', written over a horizontal line.

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims**

Please amend the claims of the instant application, without prejudice, as follows:

1. (Twice Amended) A system for providing memorial information about a deceased party interred at a cemetery location comprising:

(A) a memory device affixed to a physical object positioned at the cemetery location, the memory device being accessible to any public user, <sup>new issue</sup> the memorial information residing on the memory device; and

(B) a portable memory reading device holdable by one of the public users, separate from the memory device, that retrieves the memorial information directly from the memory device via a non-permanent proximity link <sup>new issue</sup> when positioned at the [cemetery] memory device location, and that communicates the memorial information to at least one of the public users [a party] located at the cemetery location[.];

wherein the memory device is externally connectionless for at least one of data <sup>new issue</sup>  
and power.

9. (Twice Amended) A system for providing historical information about a historically notable location comprising:

(A) a memory device affixed to a physical object positioned at the historically notable location, in a publicly accessible area, the historical information residing on the memory device; and

(B) a portable memory reading device, separate from the memory device, held by a user, that retrieves the historical information directly from the memory device via a non-permanent proximity link when positioned at the [historically notable] memory location and communicates the historical information to a [party] user located at the historically notable location[.];

wherein the memory device is externally connectionless for at least one of data and power.

24. (Twice Amended) A method for providing information related to a remote location, the information comprising memorial information about a deceased party where the remote location comprises a cemetery location, and the information comprising historical information about the remote location where the remote location comprises a historically notable location, comprising:

(A) storing the information on a memory device, the information being stored in a format for direct retrieval from the memory device and display to a [party] user with a portable memory reading device, wherein the portable memory reading device is separate from the memory device, when the portable memory reading device reads directly from the memory device via a non-permanent proximity link; [is in close proximity to the memory device;] and

(B) affixing the memory device to a physical object positioned at the remote location[.];

wherein the memory device is externally connectionless for at least one of data and power.

28. (Twice Amended) A system for providing information related to a geographically remote and publicly accessible location comprising:

(A) a memory device affixed to a physical object at the remote location, the information residing on the memory device; and

(B) a portable memory reading device, separate from the memory device, held by a user, that directly retrieves the information from the memory device via a non-permanent proximity link when positioned at the remote location and communicates the information to a [party] user located at the remote location[.];

wherein the memory device is externally connectionless for at least one of data and power.

55. (Amended) A system for providing information related to a geographically remote and publicly accessible location, comprising:

a memory device affixed at the remote location;

a portable memory reader, separate from said memory device;

a data connector, wherein said data connector, upon wired connection to said portable reader and upon contact with said memory device, passes the information directly from said memory device positioned at the remote location to said portable reader located at the remote location[.] via a non-permanent proximity link;

wherein the memory device is externally connectionless for at least one of data and power.